

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

Andrew Yang et. al., individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

New York State Board of Elections,

Defendant.

**ECF CASE**

**CIVIL ACTION:**

**AFFIDAVIT OF JONATHAN HERZOG**

Jonathan Herzog, under the pains and penalties of perjury, states as follows:

1. I am the plaintiff, individually and on behalf of all others similarly situated plaintiffs (“Plaintiffs”), in this case. I submit this Affidavit in support of Plaintiffs’ EMERGENCY ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER.
2. I am an active and registered New York State Democratic Party voter. I am currently on the ballot for the June 23, 2020 Democratic Congressional Primary to represent New York’s 10<sup>th</sup> Congressional District in the United States House of Representatives.
3. I currently reside in New York County, New York.
4. I support Andrew Yang for the office of President of the United States. I also intended to be a candidate for Delegate to the Democratic National Convention and was expecting my name to appear on the April 28, 2020 ballot where I intended to vote for Yang and myself, which I understood was delayed until June 23, 2020 because of the Covid-19 pandemic to coincide with other federal and state elections.
5. In January and February 2020, I collected countless signatures and expended great energy and costs so that Yang and myself could be on the ballot. Specifically, I collected around 267 delegate petition signatures for myself and about 300 for Mr. Yang so that we could appear on the ballot. Such signatures were duly filed under the NY Election Law.

6. On April 27, the New York Board of Elections Commissioners voted unanimously to permanently cancel the New York 2020 Democratic Presidential primary.
7. It is my belief that this action by NYS BOE violates my rights, both as a candidate and a voter, under the Constitution of the State of New York, the New York Election Law and the Constitution of the United States in that I met all the requirements and then some to be a candidate under the New York Election Law.
8. It is my belief that this arbitrary decision of the NY BOE disenfranchises both myself as a voter in the State of New York and a candidate for the office of delegate to the Democratic National Convention. Moreover, I am standing up for the class of more than six million registered Democratic Party voter in the State of New York who now, because of the BOE's capricious actions, no longer have the right to exercise their right to vote in the 2020 Democratic Presidential Primary. Despite the seriousness of the ongoing pandemic and its threat to human health and safety, it is my belief that New York State should hold a Democratic Presidential primary alongside federal congressional elections, NY State Elections for Senate and Assembly and local races (as still planned for June 23, 2020) in a manner safe for voters and election workers alike so as to not disenfranchise the voters in New York State.

WHEREFORE, your affirmant respectfully requests that this Court enter a judgement against Defendant NYS BOE enjoining them from canceling the June 23 Democratic Presidential Primary and grant Plaintiffs costs and fees and such other and further relief as this Court deems just and proper. This Affidavit is being executed electronically.

Dated: New York, New York  
April 27, 2020

By: Jonathan Herzog  
Jonathan Herzog

Candidate for Delegate to the Democratic  
National Convention (New York  
Congressional District 10) Pledged to  
Andrew Yang and NY Registered  
Democratic Party Voter